

criteria in § 40.95 and confirmatory cut-off levels required by the HHS Mandatory Guidelines.

(b) In addition, if the test fails to reconfirm the adulterant result reported in the primary specimen, you may send the specimen or an aliquot of it for testing at another HHS-certified laboratory that has the capability to conduct another reconfirmation test.

[73 FR 35973, June 25, 2008]

**§ 40.181 What does the second laboratory do with the split specimen when it is tested to reconfirm a substituted test result?**

As the laboratory testing the split specimen, you must test the split specimen using the confirmatory tests for creatinine and specific gravity, and using the confirmatory criteria set forth in § 40.93(b).

[73 FR 35973, June 25, 2008]

**§ 40.183 What information do laboratories report to MROs regarding split specimen results?**

(a) As the laboratory responsible for testing the split specimen, you must report split specimen test results by checking the "Reconfirmed" box and/or the "Failed to Reconfirm" box (Step 5(b)) on Copy 1 of the CCF, as appropriate, and by providing clarifying remarks using current HHS Mandatory Guidelines requirements.

(b) As the laboratory certifying scientist, enter your name, sign, and date the CCF.

[65 FR 79526, Dec. 19, 2000, as amended at 73 FR 35972, June 25, 2008]

**§ 40.185 Through what methods and to whom must a laboratory report split specimen results?**

(a) As the laboratory testing the split specimen, you must report laboratory results directly, and only, to the MRO at his or her place of business. You must not report results to or through the DER or another service agent (*e.g.*, a C/TPA).

(b) You must fax, courier, mail, or electronically transmit a legible image or copy of the fully-completed Copy 1 of the CCF, which has been signed by the certifying scientist.

(c) You must transmit the laboratory result to the MRO immediately, preferably on the same day or next business day as the result is signed and released.

**§ 40.187 What does the MRO do with split specimen laboratory results?**

As the MRO, the split specimen laboratory results you receive will fall into five categories. You must take the following action, as appropriate, when a laboratory reports split specimen results to you.

(a) *Category 1:* The laboratory reconfirmed one or more of the primary specimen results. As the MRO, you must report to the DER and the employee the result(s) that was/were reconfirmed.

(1) In the case of a reconfirmed positive test(s) for drug(s) or drug metabolite(s), the positive is the final result.

(2) In the case of a reconfirmed adulterated or substituted result, the refusal to test is the final result.

(3) In the case of a combination positive and refusal to test results, the final result is both positive and refusal to test.

(b) *Category 2:* The laboratory failed to reconfirm all of the primary specimen results because, as appropriate, drug(s)/drug metabolite(s) were not detected; adulteration criteria were not met; and/or substitution criteria were not met. As the MRO, you must report to the DER and the employee that the test must be cancelled.

(1) As the MRO, you must inform ODAPC of the failure to reconfirm using the format in Appendix D to this part.

(2) In a case where the split failed to reconfirm because the substitution criteria were not met and the split specimen creatinine concentration was equal to or greater than 2mg/dL but less than or equal to 5mg/dL, as the MRO, you must, in addition to step (b)(1) of this paragraph, direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.

(3) In a case where the split failed to reconfirm and the primary specimen's